

MINUTES

NATURAL RESOURCES COMMISSION

**Lansing Center
333 E. Michigan
Lansing**

November 4, 2004

PRESENT FOR THE COMMISSION

Mary Brown
Keith Charters, Chair
Bob Garner, Vice-Chair
Jerry Hall
John Madigan

PRESENT FOR STAFF

Rebecca Humphries, Director
Dennis Fedewa, Chief Deputy
Mindy Koch, Resource Management Deputy
Jim Ekdahl, Upper Peninsula Field Deputy
Peter Manning, Office of the Attorney General
Department Staff

Chairman Charters recognized **Representative Tom Casperson**.

COMMITTEE OF THE WHOLE

Chairman Charters called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:10 p.m. on Thursday, November 4, 2004. The Committee of the Whole is a working session of the NRC.

DIRECTOR'S REPORT

State Parks Budget Update

Director Humphries noted that a \$1.5 million deficit exists in the Parks and Recreation Bureau this year. The deficit is a result of declined revenues and a lack of General Fund for Parks activities. Staff is in the process of developing a plan through cost savings and establishing revenue sources to address the shortfall and will bring this issue back to the NRC meeting in December for further discussion.

Citizen's Committee for Michigan State Parks

Rodney Stokes, Legislative Liaison, reported that Senate Bill 1280 (Public Act 392) introduced by Senator Birkholz, amends Part 741 of the Natural Resources and Environmental Protection Act to establish the Citizen's Committee for Michigan State Parks. This Committee will be a 17-member advisory committee, which will be appointed by the Director of the DNR with advice from the NRC and is generally charged with the responsibility of advising the Governor, NRC and the Legislature on State Park policy, and providing guidance on State Park development, management and planning issues.

In addition, the Advisory Committee shall seek the development of a broad variety of programs, facilities, and services for our citizens utilizing the State Parks. The Committee shall also inform and educate the public about the importance of and need for State Parks; serve as a liaison to ensure cooperative effort to provide the most effective and economical services possible at State Parks; and make recommendations to the Department on a companion Bill, Senate Bill 1281 (Public Act 395), a Bill that annually recognizes the "Gem of the Parks" award, the "Volunteer of the Year" award, and the "Employee of the Year" award.

Director Humphries asked that the NRC consider making recommendations to the Committee, and noted that these recommendations should be provided soon because she has until December to make the appointment recommendations.

Litigation Update

Carol Bambery, Legal Services Coordinator, Office of Communications, reviewed two pending issues of litigation in the DNR.

Comben v State of Michigan: The Antrim County Treasurer, Comben, asked the court to clarify several aspects of the new tax foreclosure process and her responsibilities under the General Property Tax Act, and asked if severed oil and gas interests are subject to foreclosure under the new process. The trial court determined that she did not have to give notice of foreclosure to people who owned the mineral interests when those mineral owners were different than the surface owner because oil and gas is not subject to General Property Tax Act. So, oil and gas interests are not subject to tax foreclosure. That being the case, oil and gas interests that the State has claimed as part of tax reverted property did not really belong to the State.

Ms. Bambery noted that much of the DNR's state forest lands were acquired because individuals couldn't pay their taxes and the property reverted to the State. If the trial courts are correct and severed minerals were not subject to the General Property Tax Act, they may not have been foreclosed along with the surface rights when we received the property. The State currently has 3.8 million acres of mineral and surface rights and 2.1 million acres of mineral rights without surface rights.

Ms. Bambery reported that, if the Supreme Court rules that the lower courts are right and the severed oil and gas is not subject to foreclosure, the title to any severed oil and gas acquired by the State may not be valid and the State may lose future income and be exposed to damage claims. She believes, however, that the State has some strong defenses to this lawsuit.

Island Lake Shooting Range: **Ms. Bambery** reported that, in late 2003, a sound testing consultant was hired to investigate and make recommendations for mitigating sounds coming from the Island Lake Shooting Range. As a result, shooting sheds were constructed and installed. In June, Green Oak Township filed an injunction against the DNR and the concessionaire. On June 24, the Court entered an injunction requiring the DNR and concessionaire to keep the firearm sound within Green Oak Township's noise ordinance that permits 65 decibels or up to the normal traffic volume. The Court ordered the parties to do sound testing. On June 26, the concessionaire held a regional sporting clays tournament and the Township's sound expert and the DNR's sound expert found no violation of Green Oak Township's Ordinance – and the same with a sporting clay tournament on July 24. In October, citizens from Brighton Township and Green Oak Township intervened in the lawsuit. Additional testing was done on October 23 when there was heavy use of DNR's rifle range at which time several gunshots were documented higher than the traffic sound. An evidentiary hearing was held by the Circuit Court October 29 through November 2 at which time the Court ruled that there would be more harm to the residents if an injunction was not issued than there would be to those enjoined and that he would issue an injunction against the State of Michigan, its agents and

employees commanding them not to allow firearm noise to leave the premises, and that the order would be immediately effective once the written order was entered. The State of Michigan will bring a motion to stay the ruling before the Court and will file an immediate appeal. **Peter Manning, Assistant Attorney General**, commended Carol Bambery and Dennis Knapp for their preparation for this hearing.

DNR Office and Check Station Schedule: **Doug Reeves, Acting Chief, Wildlife Division**, reported that a recent development occurred at the location of the Birch Run Deer Check Station that will prevent the DNR from utilizing this facility this year. This check station will be moved to the Clio area. **Mr. Reeves** stated that the DNR is ready for the upcoming deer season and have posted check stations on the website as well as posting signs. A news release will be issued on the change for the Birch Run site and signs will be posted at Birch Run redirecting hunters. Discussion ensued relative to locations of check stations, and DNR offices availability.

David Freed, Chief, Office Land and Facilities, stated that, during the weekend prior to opening day deer season, all DNR Operation Service Centers will be open except the Livonia Center. DNR staff will be available at all Centers to answer questions and greet visitors. The DNR intends to issue a press release and the check station locations and hours will also be posted on the DNR website. Discussion ensued relative to the location of the sites to be open.

Lower Peninsula Wolf: **Doug Reeves** reported that a wolf was trapped and killed recently in Presque Isle County, Lower Peninsula. This wolf had been previously tagged by the DNR in Engadine, in the Upper Peninsula. The trapper turned the female wolf over to the DNR who will necropsy her to determine her age and whether she had bore pups.

Wildlife Report:

Dove Season: **Doug Reeves, Acting Wildlife Division Chief**, reported that the dove season was relatively quiet in the six southern counties where dove hunting was allowed. The season ran from September 10 through October 30. Harvest results have not yet been completed, however, approximately 5000 permits were issued.

Chronic Wasting Disease Audit: **Doug Reeves** reported that over 500 inspections and audits were conducted on privately owned deer and elk facilities. DNR field staff conducting the audits and inspections encountered little to no issues while in process. Most of the issues that were detected were with recordkeeping and some minor fencing issues. A draft inspection/audit report is being developed now. Facilities' inspections will continue.

Filling Vacant Positions

Director Humphries reported that the DNR is in the process of filling the Parks and Recreation Bureau Chief position with the application deadline on November 3. The Forest, Mineral and Fire Management Chief and the Wildlife Division Chief positions will be posted soon. She intends to have all three positions filled by the end of 2004.

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The Committee of the Whole meeting adjourned at 4:02 p.m.

REGULAR MEETING OF THE NATURAL RESOURCES COMMISSION

Chairman Charters called the regular meeting of the Natural Resources Commission (NRC) to order at 4:35 p.m.

PUBLIC APPEARANCES

Jason Miller, Genoa Township resident, referenced a letter from Kelly Kolakowski, Genoa Township's Planning Coordinator, stating Genoa Township's potential interest in purchasing the Brighton Recreation Area properties listed on the NRC Agenda for a reasonable price.

Mr. Miller opposed the sale of the parcels as listed on the Agenda as Land Transaction Case #s 20020059 and 20000066, for the following reasons: 1) the areas' resource values as eastern massasauga rattlesnake breeding area, sandhill crane nesting area, deer, fox, rabbit and songbird habitat, pine forest, hardwood forest, and rolling elevations; 2) recreational and hunting values; 3) manageability issues such as limited access from the road being advantageous and available easements through subdivisions; and 4) development pressure if the property is sold to developers. **Commissioner Madigan** questioned what **Mr. Miller** felt about the payment-in-lieu-of-taxes problem that exists. **Mr. Miller** was unable to comment. **Chairman Charters** asked if Genoa Township was willing to purchase the parcels for true market price. **Mr. Miller** could not comment on behalf of the Township; however, he did state that the Township would likely retain this property as green space.

Charles Stitman, Brighton, opposes the sale of any part of the Brighton Recreation Area because the local residents and local taxpayers are frequent users of the property. His primary concern is that purchasers may develop the property.

David Nicholson, Brighton, resides south of the Brighton Recreation Area and opposed the sale of the Brighton Recreation Area properties on the agenda. He contends that these parcels are not isolated; that the public utilizes these parcels regularly; and is concerned that, if sold, the property will be developed. Discussion ensued regarding public access to these parcels.

Jessica Yasik, Genoa Township resident, opposes the sale of land. She utilizes the property for adventure racing and is a frequent user of the parcels. She would, however, support a land transaction that would exchange these parcels for other parcels within the Brighton Recreation Area.

Chairman Charters questioned whether there were designated trails on the parcels in the Brighton Recreation Area that are for sale. **Paul Yauk, Parks and Recreation Bureau,** said there were not. He also noted that the public access to the property is a small point in the middle of a road on the southeast corner of the property. **Commissioner Hall** noted that residents living near the property have offered access to the property via private property. **Commissioner Hall** also noted that the National Park Service would have to also approve the sale of these parcels.

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The Public Appearances portion of the meeting adjourned at 5:15 p.m. and the Regular Meeting of the NRC convened immediately.

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APPROVAL OF MINUTES – OCTOBER 7, 2004 NATURAL RESOURCES COMMISSION MEETING

Commissioner Garner made a motion, supported by Commissioner Hall, for approval. Motion unanimously carried. **Commissioner Brown** requested that, for the record, individuals who speak during public comment be recognized in the minutes as who they represent. Teresa Gloden, Assistant to the NRC responded that, if that information is available, it is included. However, at times the individual represents themselves as a citizen.

2005 SPRING WILD TURKEY REGULATIONS, WILDLIFE CONSERVATION ORDER, AMENDMENT NO. 18 OF 2004

Commissioner Garner made a motion, supported by Commissioner Madigan, for approval. Motion unanimously carried.

DIRECTOR'S ACTION ITEMS

Director Humphries stated her intent to sign all Director's Action items on the Agenda. She noted that she was not unsympathetic to those opposing the sale of the Brighton Recreation Area parcels, but the DNR is in a situation of having to make hard decisions when following the plan to fill in-holdings on State land. She expressed support for Genoa Township's interest in purchasing the parcels and will consider it in the process. **Chairman Charters** commended staff on their efforts to fill in-holdings on State land and said that the DNR cannot afford the luxury of retaining land that has little use to the general public. **Commissioner Madigan** encouraged those in attendance to assist in ensuring that the owners of the in-holdings at Brighton Recreation Area consider selling these parcels to the State. Discussion ensued relative to utilizing land conservancies in the land management process.

COMMISSIONER REPORTS

Commissioner Hall reported he has enjoyed the hunting season thus far; he worked with the residents near the Brighton Recreation Area on the proposed sale of lands.

Commissioner Madigan said he has had positive feedback from the meeting held in Sault Ste. Marie in October; and has received positive feedback from UP Whitetails on the DNR's decision to increase the number of hunters surveyed for the UP quality deer management proposal.

Commissioner Garner reported that he has had some great bird hunts thus far; and hosted the CMU Public Television "Ask the DNR" program. He thanked Penney Melchoir, Dean Molnar and Tom Rozich from the DNR for also participating. Wildlife Division goals are being set for 2005.

Commissioner Brown reported that bridges are being completed on the Kal-Haven trail near US-131 in the Kalamazoo area.

Chairman Charters spent most of the past month grouse hunting.

NRC Policy Committee on Technology, Information, Marketing and Education (TIME) – Meeting Report

Commissioner Brown, Committee Chair, reported that the NRC Policy Committee on TIME met on November 4, 2004 at 12:30 p.m. in Lansing. **Commissioner Brown, Commissioner Garner, and Commissioner Charters** were present for the NRC. Items of discussion included: Wireless Connections in State Parks Update; Retail Sales Systems Update; and Campground

Reservation System Update. Discussion was also held relative to showcasing DNR-related stories.

NRC Policy Committee on Land Management

Chairman Charters (also Committee Chair) reported that the NRC Policy Committee on Land Management met on November 4, 2004 at 1:30 p.m. in Lansing. **Chairman Charters and Commissioner Brown** were present for the Committee. The Minutes from that meeting are attached. **Charters** noted that this process has taken a great deal of staff time and believes it will be one of the greatest legacies of the current Commission.

The meeting adjourned at 5:40 p.m.